

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

August 22, 2005

IN RE:

**PETITION OF ATMOS ENERGY CORPORATION
FOR APPROVAL OF GAS TRANSPORTATION
AGREEMENT WITH THE GOODYEAR TIRE
AND RUBBER COMPANY**

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**DOCKET NO.
03-00540**

**ORDER GRANTING AMENDED PETITION AND APPROVING
AMENDED GAS TRANSPORTATION AGREEMENT**

This matter came before Chairman Pat Miller, Director Deborah Taylor Tate and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this Docket, at a regularly scheduled Authority Conference held on August 30 and 31, 2004 for consideration of the *Amended Petition of Atmos Energy Corporation for Approval of Gas Transportation Agreement with the Goodyear Tire and Rubber Company* (the "*Amended Petition*") filed by Atmos Energy Corporation ("Atmos") on August 6, 2004.

BACKGROUND

On September 30, 2003, Atmos filed the *Petition of Atmos Energy Corporation for Approval of Gas Transportation Agreement with the Goodyear Tire and Rubber Company* ("*Petition*"). In the *Petition*, Atmos asserted that the Goodyear Tire and Rubber Company ("Goodyear") entered into a requirements contract with Atmos several years ago for gas transportation service to its tire manufacturing facilities in Union City, Tennessee. Goodyear recently notified Atmos of its intent to install a pipeline connection from the Union City Plant to the CMS Trunkline Gas Company pipeline to bypass Atmos' distribution system. Goodyear provided Atmos with a feasibility study and cost

analysis it had performed with regard to the proposed direct connection pipeline. Atmos performed its own analysis and determined that the proposed bypass was both an economically feasible and operationally viable option for Goodyear. Having concluded that a bypass by Goodyear was imminent, Atmos performed financial analyses and negotiated a rate structure with Goodyear that resulted in a Gas Transportation Agreement (“Agreement”). In its *Petition*, Atmos requested that the Authority approve the Agreement, which was filed with the *Petition*.

At the regularly scheduled Authority Conference held on October 21, 2003, the panel voted unanimously to suspend the Agreement through January 29, 2004 and to appoint the Authority’s General Counsel or his designee to act as the Hearing Officer to hear preliminary matters prior to the hearing, to rule on any petitions for intervention and to set a procedural schedule to completion.¹ The Hearing Officer subsequently re-suspended the Agreement through March 29, 2004. On February 23, 2004, the Authority’s Energy and Water Division Staff (“Staff”) filed a *Petition to Commence a Contested Case and to Intervene*, which was granted by the Hearing Officer on March 22, 2004.²

A procedural schedule was established by the Hearing Officer through an order issued on April 20, 2004. That procedural schedule was suspended by order dated May 19, 2004 upon the joint request of the parties for additional time to conduct settlement negotiations. A new procedural schedule was established by order dated June 28, 2004 and the Agreement was subsequently re-suspended through August 30, 2004.³

Atmos filed its *Amended Petition* on August 6, 2004. In the *Amended Petition*, Atmos states that subsequent to the filing of the *Petition* Atmos met with Staff and, thereafter, Atmos and

¹ Order Suspending Special Contract for Ninety Days and Appointing a Hearing Officer (February 19, 2004)

² See Order Granting Petition to Commence a Contested Case and to Intervene and Requesting Proposed Protective Order and Procedural Schedule (March 22, 2004)

³ See Order Granting Motion to Convene Status Conference and Re-suspending Special Contract for an Additional Thirty Days (March 29, 2004), Order Establishing Procedural Schedule and Re-suspending Special Contract (April 20, 2004), Order Establishing New Procedural Schedule and Re-suspending Special Contract (June 28, 2004)

Goodyear renegotiated certain provisions of the Agreement. Specifically, the parties amended the provisions of the Agreement related to price, adjustment for unaccounted gas, term of the Agreement and assignability.⁴

FINDINGS AND CONCLUSIONS

On August 30 and 31, 2004 at the regularly scheduled Authority Conference, a majority of the voting panel assigned to this Docket made the following findings. First, the bypass by Goodyear poses both a viable option and an imminent threat based on a feasibility study and cost analysis instituted by Goodyear. The study identified three options that would remedy Goodyear's cost cutting concerns. These three options include shifting production to other Goodyear plants which have lower gas distribution costs, switching the Goodyear plant to 100% oil usage, and installing a pipeline connection from the Union City Plant to the CMS Trunkline Gas Company pipeline to bypass Atmos' distribution system. Of these three options the latter is the most attractive due to cost effectiveness and the fact that it will not result in the loss of a vast number of jobs in Union City, Tennessee.

Second, the rates and terms provided in the amended Agreement are fair and the highest rates that could be negotiated. These rates and terms were the result of a meeting of the minds between the two entities, and the rates were actually increased during the last round of discussions.

Third, Atmos should not recover any of the lost margin from its other customers. In Docket U-84-7333, the Tennessee Public Service Commission ordered Atmos to abide by a Sales Adjustment Mechanism regarding sales to Goodyear. Pursuant to this mechanism, Atmos is required to refund its customers all additional margin received from sales to Goodyear. Thus, the question of whether Atmos should be allowed to recover lost margin is a non-issue.

⁴ The specific terms of the Agreement and the amendments to the Agreement were filed as "Confidential" pursuant to the terms of the *Agreed Protective Order* entered on March 29, 2004

Fourth, the amended Agreement is in the best interest of Atmos' other customers. If Goodyear did utilize the bypass option Atmos would lose a significant amount of revenue. This loss would result in higher rates for other Atmos customers. For the foregoing reasons, a majority of the panel⁵ voted to grant the *Amended Petition* and to approve the Agreement as amended.

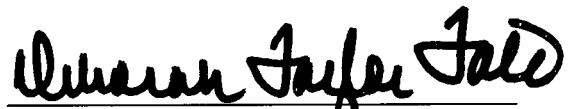
IT IS THEREFORE ORDERED THAT:

1 The *Amended Petition of Atmos Energy Corporation for Approval of Gas Transportation Agreement with the Goodyear Tire and Rubber Company* filed by Atmos Energy Corporation on August 6, 2004 is granted; and

2 The Agreement as amended is approved

A handwritten signature in black ink, appearing to read "PAT Miller", written over a horizontal line.

Pat Miller, Chairman

A handwritten signature in black ink, appearing to read "Deborah Taylor Tate", written over a horizontal line.

Deborah Taylor Tate, Director

Ron Jones, Director

⁵ Director Jones did not vote with the majority and filed a separate dissent